



Legislative Reports



House of Commons

With the summer adjournment in sight and important legislation before the House, tensions began to rise and patience began to wear thin in the Chamber. The most important topic of discussion amongst parliamentary observers was certainly the confidence convention. The last months of Spring 2005 led to the examination of this seldomly talked about convention in greater detail. Two clear instances can be identified.

Firstly, arguing that its focus was on the passage of the Budget implementation Bills (C-43 and C-48), the government decided to postpone the designation of Opposition days. The Government House Leader went as far as to undesignate an Opposition day which had already been granted but on which debate had not yet started. This rarely seen occurrence took place after the Official Opposition had put on notice a motion that, if adopted, would have designated the remaining Opposition days, which is, by convention, the responsibility of the government.

The undesignation of this allotted day paved the way for the Official Opposition to use motions to concur

in committee reports as a means of testing the confidence of the House in the government. For instance, after the Opposition House Leader moved that the Third Report of the Standing Committee on Finance, dealing with pre-budget consultations, be concurred in, the Leader of the Opposition moved an amendment. He moved that the report be not now concurred in, but that it be recommitted to the Standing Committee on Finance with the instruction that it amend the report so as to recommend that, in view of its refusal to accept some of the Committee's key recommendations and to implement budgetary changes, the government resign. The Speaker ruled that the amendment was in order and clearly stated that it was not up to the Speaker to judge the substance of any motion; rather the Chair must determine solely whether our procedures have been respected in the presentation of a motion to the House. The vote proceeded and resulted in a count of 153 in favour of the motion and 150 opposed.

The opposition felt they had clearly expressed their non-confidence in the government with this result, but the government felt otherwise. The Prime Minister and the Government House Leader, on numerous occasions, stated that the adoption of a motion of concurrence in a committee report amounts to nothing more than a 'procedural motion' and that it does not qualify as a motion of confidence in the government.

In the following days, motions to adjourn the House were proposed by the opposition and adopted by the House. For the opposition, this was another clear indication that the government had lost the confidence of the House and the moral authority to govern and that it should resign. This led to the second important moment where the confidence convention took centre stage.

As a result of the Prime Minister's address to the nation, in which he committed to allowing the House to express its confidence in the government, an all party agreement made it possible to have the votes necessary to dispose of the second reading stages of Bills C-43 and C-48. The votes took place on May 19, 2005. The government was able to survive this first set of confidence votes (a casting vote by the Speaker was needed, see below for more information), but the government now had to ensure that these bills got to committee and came back to the House for consideration at third reading.

On June 14, 2005, the Standing Committee on Finance presented its Fourteenth Report to the House with respect to Bill C-48. This report indicated that the Bill had been amended in such a way that all of its content was removed with the exception of the title. The government was forced to move motions to re-instate the clauses that were deleted so that the Bill could then proceed.

Once the clauses were re-instated and both C-43 and C-48 were ready

for third reading, the government realized that in order to pass the two budget bills and the same-sex marriage bill, they would need to extend the sittings of the House, and that is exactly what they did. On June 9, 2005, the Government House Leader moved that, pursuant to Standing Order 27(1), commencing June 13, 2005, and concluding June 23, 2005, on Mondays, Tuesdays, Wednesdays, and Thursdays the House would continue to sit until midnight. Seeing that this would still not be sufficient, the government then gave notice for Government Business No. 17 which would see the sitting period extended until such time as Bills C-43, 48, and 38 were sent to the Senate. To ensure that this motion to extend the sittings was adopted in a timely fashion, the Government House Leader gave notice and later moved for closure of the debate, which was eventually adopted by the House.

Upon considering the bills in question, C-43 passed without much opposition. It is only due to the use of both time allocation and closure, however, that the government succeeded in passing C-48 and C-38, which then allowed the House to adjourn for the summer on June 28, 2005.

Standing Order Change

Many other procedural tactics have been used in the last few months. A recent Standing Order change provided for three hours of debate on motions for concurrence in committee reports. Little did anyone know that this would provide the opposition with the arsenal it needed to filibuster the proceedings of the House. Because motions to concur in committee reports are moved and debated under the rubric "Motions" during Routine Proceedings, Members repeatedly took advantage of

the three hours provided for debate to frustrate the government's ability to proceed to Government Orders. It is this new procedure that the opposition used to explore the confines of the confidence convention previously described.

Privilege / Speaker's Rulings

The Speaker has had to rule on several occasions with regard to privilege or other matters on which the House needed clarification from the Chair. These instances include:

- On April 18, 2005, the Speaker ruled that the question of privilege raised by **Brian Masse** (Windsor West) concerning a householder (10 percenters) mailing to constituents of Windsor West under the frank of **Monte Solberg** (Medicine Hat) constituted a *prima facie* question of privilege. Subsequently, the Speaker ruled that two other similar cases regarding the use of the frank of Members and mailings were *prima facie* cases of privilege (May 3, 2005, raised by **Mark Holland** (Ajax--Pickering) and **John Reynolds** (West Vancouver--Sunshine Coast--Sea to Sky Country)); and May 10, 2005, raised by **Mike Chong** (Wellington--Halton Hills). On June 22, 2005, the Standing Committee on Procedure and House Affairs presented its Forty-Forth Report, in which it concludes that there was no breach of privilege in any of these cases.
- On May 3, 2005, the Speaker ruled on the question of privilege raised by **Bob Mills** (Red Deer) who charged the Prime Minister with contempt of Parliament for allegedly disregarding a motion to concur in a committee report adopted by the House on April 6, 2005. The report had recommended that **Glen Murray's** nomination as Chairman of the National Round Table on the Environment and the Economy be rejected. The Speaker indicated that committees do not have the power to revoke an appointment or nomination, that Order in

Council appointments are the prerogative of the Crown, and that he could not compel the Government to abide by the Committee's recommendation.

- On May 4, 2005, the Speaker ruled that the Chair would continue to accept that documents be tabled by Ministers during Oral Questions or indeed at any time.
- On June 6, 2005, the Speaker made a short statement regarding matters before the Ethics Commissioner. He stated that once a request for an inquiry has been made, Members should permit the inquiry process to take place without further commenting on the matter in the House, and that the Chair would be enforcing the Code's provisions with respect to questions and answers during Oral Questions.
- On June 8, 2005, the Speaker ruled on the questions of privilege raised by the **Don Boudria** (Glenarry--Prescott-Russell) concerning the blocking of fax lines and the registration of Internet domain names of certain Members of the House of Commons by individuals or organizations with no affiliation to the House. The Speaker ruled that there were no *prima facie* breaches of privilege because, even if the Members had experienced some inconveniences, they had not been prevented from performing their parliamentary duties.

Committees

Committees were not immune from the increased tensions in the Chamber. Party lines were clearly drawn in some committees while others continued to function normally.

- Once Bill C-38, the same-sex marriage bill, was adopted at second reading, it was referred to a legislative committee with **Marcel Proulx** (Deputy Chairman of Committees of the Whole) appointed by the Speaker to be its chair. On May 30, 2005, the chair gave a ruling with respect to the definition of a 'technical witness' that would be used when considering possible witnesses to ap-

pear before the Committee. Essentially, the chair stated that it would be up to the Committee to decide its own definition and decide for itself what it considers to be a technical witness;

- Concerning the consideration by committees of Order in Council appointments, on April 5, 2005, the Standing Committee on Environment and Sustainable Development recommended that the House reject the appointment of Glen Murray to the National Round Table on the Environment and the Economy. The government ultimately decided to go ahead with the appointment. In another instance, the Standing Committee on Access to Information, Privacy and Ethics in its Fifth Report, recommended that the term of the Information Commissioner be extended for a period of one year. The government, in this case, chose to extend the appointment for a period of three months only;
- On June 16, 2005, the Standing Committee on Procedure and House Affairs presented to the House its Forty-Third Report regarding electoral reform. This report recommends a process for examining our electoral system and the options available.

Private Members' Business

Private Members' Business was the area that was least affected by the mounting tensions in the House. The Chair continued to ensure the smooth functioning of Private Members' Business by ruling, on several occasions, on the necessity for certain private Members' bills to be accompanied by a royal recommendation. Since the beginning of May, the Chair has made 5 such rulings. Other interesting occurrences with regard to Private Members' Business include:

- On May 11, 2005, the adoption of the Thirty-Seventh Report of the Standing Committee on Procedure and House Affairs made the provisional Standing Orders gov-

erning Private Members' Business permanent;

- On June 23, 2005, the House concurred in the Thirteenth Report of the Standing Committee on Health, which requested an extension of 30 sitting days, to consider Bill C-420, *An Act to amend the Food and Drugs Act*, pursuant to Standing Order 97.1.

Other Matters

A take-note debate was held on June 7, 2005 with regard to supply management. In addition, an emergency debate was held on June 21, 2005, in response to the growing interest and concern with the Devil's Lake diversion project.

Between May and June, 2005, the Speaker had to use his casting vote on three occasions. The first instance occurred on May 4, 2005, following the taking of deferred recorded division on the motion for second reading of Bill C-215 (*An Act to amend the Criminal Code (consecutive sentence for use of firearm in commission of offence)*) in the name of **Daryl Kramp** (Prince Edward--Hastings); the result of the vote was Yeas: 148; Nays: 148. Consequently, the Speaker voted "yea", stating that he was voting for further debate on this bill, as is the practice. In the second case, following the vote on the motion for second reading of Bill C-48 (*An Act to authorize the Minister of Finance to make certain payments*), on May 19, 2005, the result being tied (Yeas: 152; Nays: 152), the Speaker made a short statement and stated that the Speaker's vote is not one based on party affiliation but rather one based on parliamentary traditions, customs and usages. As such, he voted in favour of the motion, allowing the House to have more time for debate and for referral to the Standing Committee on Finance, so that the House could make its own decision at a later date.

In the final instance, on June 22, 2005, following the taking of the recorded division on M-228 (House of Commons Symbol) the votes being equally divided (Yeas: 143 and Nays: 143), the Deputy Speaker, **Chuck Strahl** gave the casting vote in the negative since, with no further discussion on the motion being possible, it was not for the Chair to decide that the proposal would go forward. The following day, however, the Speaker made a statement announcing that, following the previous day's vote, Mr. Bergeron (Verchères-Les Patriotes), who was recorded as voting Nay, brought to the attention of the Table that he was seated and should not have been recorded as having voted. Accordingly, the Speaker informed the House that the decision on Motion No. 228 would be changed and the motion would, as a result, be adopted by a vote of Yeas: 143 and Nays: 142.

Members

Since April, there have been three Members who have changed parties, one new Member elected in a by-election and the passing of another Member of the House.

- On April 13, 2005, **David Kilgour** (Edmonton--Mill Woods--Beaumont) left the Liberal caucus to sit as an Independent;
- On May 16, 2005, **Belinda Stronach** (Newmarket--Aurora) crossed the floor to sit as a Liberal and was sworn in as a Cabinet Minister on May 17, 2005;
- **Todd Norman Russell** (Labrador) was elected in a by-election on May 24, 2005;
- On June 6, 2005, **Pat O'Brien** (London--Fanshawe) left the Liberal caucus to sit as an Independent;
- **Chuck Cadman** (Surrey North) passed away July 9, 2005 after a

long and courageous battle with skin cancer.

Legislation

While the government's priorities were clearly focused on the budget implementation bills and on C-38 (*An Act respecting certain aspects of legal capacity for marriage for civil purposes*), other important pieces of legislation were introduced in the House.

Bills introduced since the beginning of May include:

- C-48, *An Act to authorize the Minister of Finance to make certain payments*;
- C-51, *An Act to amend the Judges Act, the Federal Courts Act and other Acts*;
- C-56, *An Act to give effect to the Labrador Inuit Land Claims Agreement and the Labrador Inuit Tax Treatment Agreement*;
- C-58, *An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2006 (Appropriation Act No. 2, 2005-2006)*;
- C-60, *An Act to amend the Copyright Act*.

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Nova Scotia

The Spring Sitting of the Nova Scotia House of Assembly be-

gan on April 18, 2005 and ended on May 19, 2005.

The Nova Scotia Liberal Party held a leadership convention in October 2004 to replace **Danny Graham** who stepped down as Leader because of his wife being seriously ill, and chose **Francis MacKenzie** as its leader. Mr. MacKenzie defeated **Ritchie Mann**, who held several portfolios and was Government Leader in the Savage Government. Mr. MacKenzie does not, at present, hold a seat in the General Assembly.

On December 31, 2004, **John Chataway**, member for Chester-St. Margarets, died suddenly, and a by-election to fill the vacancy so created, was held on June 21, 2005. **Judy Streach**, won the by-election for the Progressive Conservatives.

Just before the Spring Sitting began, **Russell MacKinnon**, member for Cape Breton West, announced that he was leaving the Liberal Caucus and sit as an Independent.

At the opening of the Spring Sitting the Government remained in a minority position, the standings being as follows: Progressive Conservatives 24, NDP 15, Liberals 11, Independent 1 and Vacant 1.

The Sitting was very short and without controversy.

The NDP introduced, in Committee of the Whole on Supply, a motion that the salary of the Minister of Community Services be reduced to \$1.00. The Government announced that it would treat this motion as a lack of confidence, but the motion was withdrawn.

The main test for the Government in the sitting was the vote on the budget which passed with a vote of 39 for the motion for second reading of the *Appropriations Act* and 11 against, with the NDP and the Independent member voting for the motion, but with the Liberals voting against the motion.

Thirty-three bills were passed during the sitting; 32 public bills and 1 private bill. Five of the public bills were introduced by non-Government members. Of these, two were introduced by members of the NDP Caucus, two by members of the Liberal Caucus and one by the Independent member; however, they were called for debate by the Government and supported by the Government, with some changes to some of the bills.

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Alberta

The Spring Sitting of the First Session of the Twenty-Sixth Legislature adjourned on May 24, 2005 after 42 sitting days for a total of just over 223 sitting hours. By the conclusion of the sitting, 40 Government Bills, two Private Members' Public Bills and three Private Bills were passed by the Assembly. Two Government Bills and one Private Bill were left on the Order Paper in addition to other Private Members' Business items.

Emergency Debate

On May 10, 2005, **Brian Mason**, Leader of the New Democrat Opposition, requested leave to move that the ordinary business of the Assembly be adjourned for an emergency debate regarding "the ongoing suffering of residents in long-term care facilities in Alberta", as identified by the May 2005 report of the Audi-

tor General. The report, which had been released the previous day, concluded that basic standards of care were not being met in several of the facilities investigated. While Speaker **Kenneth Kowalski** ruled in favour of the motion, he expressed concern with the "provocative wording" of the motion. The Assembly had not had a Standing Order 30 application proceed since 2000, when one was held regarding a health care strike. At that time, the standings in the Assembly were similar to what they are now.

Two earlier Standing Order 30 requests regarding a controversy surrounding the Alberta Securities Commission (ASC) were ruled out of order by Speaker Kowalski. On April 27, 2005, the Official Opposition requested an emergency debate be held to discuss the loss of investor confidence in the ASC after it was revealed that the Minister of Finance had been sent a letter by ASC staff expressing concern with their work environment, the ASC's enforcement practices and the potential impact on Alberta's capital markets. The Speaker ruled that while the matter was serious, it did not constitute a genuine emergency.

On May 5, 2005, a second request for an emergency debate was made after the ASC filed an originating notice against the Auditor General challenging his jurisdiction to conduct an audit of the agency. The request was ruled out of order by Speaker Kowalski who indicated that he did not want to set a precedent which would make it difficult for future Speakers to rule anything out of order for *sub judice* reasons.

Privilege

On May 17, 2005, **Tony Abbott**, (PC, Drayton Valley-Calmar), made certain comments to the media in reaction to **Belinda Stronach** crossing the floor of the House of Commons.

These comments gave rise to an issue in the Assembly the following day when an altercation is alleged to have taken place between Rev. Abbott and **Rick Miller** (Lib, Edmonton-Rutherford) in the lobby behind the Chamber. The alleged altercation appeared to have arisen over comments made by Mr. Miller during the routine item Members' Statements. In his statement, Mr. Miller expressed concern that certain comments made by a Member of the Legislative Assembly would discourage women from entering politics. The Members' Statement was based on the remarks made by Rev. Abbott concerning Ms Stronach. Following the statement, Rev. Abbott attempted to raise a point of order. Speaker Kowalski, who did not take the point of order into consideration, explained that when the item Members' Statements was added to the Routine in 1993, House Leaders agreed that all Members in the Assembly would "deal with the highest degree of civility with respect to these statements, to not bring into question any other Member, and to deal essentially with thoughts that they had". Accordingly, no Member would rise on a point of order or on a point of privilege. The Speaker did, however, caution all Members about referring to other Members in their Members' Statements, noting that while the Member had not been mentioned by name in the statement, it was clear who was being referred to. **Laurie Blakeman**, Official Opposition House Leader, gave notice later that afternoon that she would be raising a question of privilege on the next regular sitting day regarding the alleged altercation. As this was the last regular day of the Spring Sitting, the matter will be held over until the Fall Sitting.

Other Matters

On April 27, 2005, the Assembly approved a motion to allow a representative from each branch of the Canadian Armed Forces on to the floor of the Assembly to mark the occasion of the 60th anniversary of VE (Victory in Europe) Day. The motion also allowed for one of the representatives to address the Assembly. On May 5, 2005, veterans of the Second World War were honoured in the Chamber. **Doug Learoyd** who served in the Royal Canadian Navy Volunteer reserve and Captain **Stu Lindop** who fought with the South Alberta Regiment joined Squadron Leader **Samuel S. Lieberman**, who spoke on behalf of the province's veterans.

On May 24, 2005, Her Majesty **Queen Elizabeth II**, addressed from the Speaker's Chair the Members of the Legislative Assembly, dignitaries and guests on the Chamber floor and in the galleries. It was the first time in Alberta's history that a reigning Monarch took the throne inside the Chamber.

Her Majesty, who was welcomed by Premier **Ralph Klein** and introduced in the Chamber by Speaker Kowalski, paid tribute to Alberta's forefathers and their contributions to the province. Her Majesty also spoke of the opportunities that lie ahead for Albertans as well as the need to protect land for future generations. Following the address Her Majesty went on a walkabout of the Legislature grounds.

Several events are being planned for the province's official birthday on September 1, 2005. Gala concerts are scheduled to re-open the Jubilee Auditoria in Edmonton and Calgary, both of which have undergone extensive renovations. There will also be entertainment and activities including fireworks at the Legislature Grounds as well as a

re-enactment of the province's inauguration.

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British Columbia

The British Columbia Legislative Assembly has been in a period of dissolution since the writs of election were issued on April 19, ending the Thirty-Seventh Parliament. The Thirty-Eighth Parliament is expected to begin in September.

Provincial Election Results

Following a record number of recounts, the results of the May 17 provincial general election are now finalized. As reported previously, the BC Liberal Party formed the government with 46 seats and the BC New Democratic Party elected 33 members. No Independent candidates or representatives from other parties won seats in the House.

The BC Liberals received 46 percent of the popular vote, down from 58 percent in 2001, while the New Democrats won 42 percent of the popular vote, up from 22 percent in the last election. The Green Party of BC garnered 9 percent of the popular vote, down from 12 percent in 2001, and the 22 other parties running candidates each earned less than one percent of the popular vote. This represents a slight change from 2001, when two "third" parties – the BC Marijuana Party and the BC Unity Party – each

won about three percent of the popular vote.

Of those Liberal MLAs elected, 36 are returning from the previous parliament, and ten are new Members. New NDP MLAs number 27, while two are returning from the previous parliament and four are former MLAs from the Thirty-Sixth Parliament.

A total of seven recounts were conducted by Elections BC. *Election Act* rules allow candidates to request a judicial recount and automatically require a judicial recount in constituencies where the gap between first- and second-place candidates is less than 1/500 of the total number of ballots cast in the riding. Recounts in Saanich South, Cariboo North, Skeena and Burnaby Edmonds were requested by trailing Liberal candidates, and one in Burnaby North was requested by the second-place NDP candidate. Recounts in the ridings of Vancouver-Burrard and Cariboo South were triggered automatically, as first-place candidates in those two constituencies led by only 17 and 32 votes, respectively. All recounts confirmed the original results of the combined election night and absentee ballot counts.

Voter Turnout

This election year, Elections BC waged its own campaign - to improve voter turnout. The Chief Electoral Officer, **Harry Neufeld**, who came to the job in 2002, has led a number of changes to improve upon the record low of 55 percent voter turnout in the 2001 provincial election. Although participation rates are declining across Canada, BC's voter turnout in that election was second-lowest of any Canadian jurisdiction.

Recent measures taken to improve turnout centred on getting more voters registered. Amend-

ments to the *Election Act* in 2004 allowed Elections BC to update and add voters to the provincial voters list using the federal list. This move alone added some 580,000 voters. Registering to vote was also made easier by allowing individuals to register or update their information on-line, by phone, with a mail-in form, at any government agent's office or at any of the district electoral offices opened prior to the election. It was also possible to register at polling stations on election day. Elections BC reports that the on-line registration option was the most popular method among voters.

In its registration and awareness drive, Elections BC specifically targeted two of the groups that don't traditionally vote: those mainly young people who are cynical about the value of their vote, and those with language or other barriers that prevent them from exercising their right to vote. Elections BC reached out to youth by hiring a youth liaison officer to promote registration among youth and by adding a youth participation page to its website. Its move to permit on-line voter registration was also meant to appeal to young voters. To remove administrative barriers to voting, amendments to the *Election Act* in 2004 added new provisions to allow individuals with no dwelling place to register to vote using a shelter, hostel or similar institution as a residential address. Elections BC also enumerated at shelters, social service agencies and long-term care facilities throughout B.C. Liaison officers were hired to network and promote registration and voter participation within First Nations, Chinese and Indo Canadian communities.

Other measures to improve voter turnout involved improving voting accessibility. Voters were able to attend any polling centre, not just the

one to which they were assigned, and advance voting and alternative absentee voting opportunities were also available.

Registration among eligible voters did improve significantly, measuring 90 percent - up from 78 percent in 2001. Voter turnout results also changed slightly, with over 57 percent of eligible voters casting a ballot. Just over 55 percent of eligible voters cast a vote in the referendum on electoral reform.

Referendum on Electoral Reform

The results of the Referendum on Electoral Reform have also been finalized, showing that overall 57.69 percent of voters answered "yes" to the referendum question, and that more than 50 percent of voters in 77 of 79 electoral districts approved the adoption of a single transferable vote electoral system. While a stronger endorsement of the STV than many observers expected, the numbers failed to meet the threshold required by the *Electoral Reform Referendum Act*. Under that statute, the referendum question would only pass with the approval of at least 60 percent of the referendum votes cast provincially, and at least 50 percent of the referendum votes cast in at least 48 of the 79 electoral districts.

Due to the strong support for electoral reform evidenced by the referendum results, Premier **Gordon Campbell** and the Leader of the Official Opposition, **Carole James**, have expressed an interest in continuing to explore alternative electoral models for the province.

Cabinet and Caucus Appointments

The new 23-member Liberal cabinet, announced in June, includes 17 returning Ministers, as well as some returning and some new Private Members. New to cabinet is return-

ing MLA **Bill Bennett**, as Minister of State for Mining. Also new to cabinet is three-time MLA and former Parliamentary Secretary to the Government House Leader, **Barry Penner**, as Minister of Environment and Minister Responsible for Water Stewardship and Sustainable Communities. Former Speaker **Claude Richmond** is now Minister of Employment and Income Assistance. Newly elected MLA and former BC Court of Appeal Justice **Wally Oppal** has been appointed Attorney General, while new MLA **Carole Taylor** is Minister of Finance. **Olga Ilich**, also a first-time MLA, has been appointed Minister of Tourism, Sports and the Arts.

Three new parliamentary secretary positions have also been created. Returning MLA **Richard Lee** is Parliamentary Secretary for the Asia-Pacific Initiative to the Minister of Economic Development. **Dave Hayer**, also in his second term, is Parliamentary Secretary for Multiculturalism and Immigration to the Minister Responsible for Multiculturalism. And returning MLA **Val Roddick** is Parliamentary Secretary for Agriculture Planning to the Minister of Agriculture and Lands.

Shirley Bond was reappointed as Deputy Premier and **Mike De Jong** will serve as the new Government House Leader. **Gordon Hogg** has been selected by the caucus as Government Caucus Chair. The new Government Whip is returning MLA **Randy Hawes**, and the new Government Deputy Whip is returning MLA **Dennis MacKay**.

Later in June, Opposition Leader Ms. James announced that all members of the Opposition caucus have been appointed to critic positions. In addition to those mirroring the cabinet, critics have been appointed to areas that the Opposition has identified as key concerns: seniors

care, mental health, housing, fisheries and aquaculture, Crown corporations, ferries and ports, and human rights.

The Official Opposition has named former NDP cabinet minister **Mike Farnworth** as Opposition House Leader, and returning MLA **Jenny Kwan** as Opposition Caucus Chair. New MLA **Katrine Conroy** has been appointed Opposition Caucus Whip.

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Manitoba

In accordance with a programming motion passed in the House at the end of the last session in June 2004, the House had been scheduled to rise on June 9, 2005. As a result of all-party talks though, the House agreed unanimously to extend the session by one week to allow an appropriate amount of time to conclude the remaining business. Consequently, the House adjourned for the summer on Thursday, June 16, 2005.

Legislation

Covering many areas of governance, Manitoba MLAs considered a range of legislation this session, including:

- Bill 22 - *The Water Protection Act*, which set out a legislative scheme to provide improved protection for Manitoba's water resources and aquatic ecosystems. Held

over from the previous session, this bill was the object of an unprecedented number of Report Stage Amendments this session. A total of 43 amendments and sub-amendments were moved during Report Stage over a period of several weeks. **Steve Ashton** (NDP - Thompson), the Minister responsible for Water Stewardship, moved 20 of the amendments, all of which passed. Three opposition Members, including the official opposition critic **Jack Penner** (PC - Emerson), moved the remaining amendments. While most of the opposition amendments did not pass, through negotiations between the minister and the critic two opposition amendments carried and became part of the Bill. Several opposition amendments were also withdrawn by unanimous consent and replaced by government amendments in cooperation with the opposition.

- Bill 25 - *The Workers Compensation Amendment Act*, implemented changes to the Act in the three main areas: Coverage and Assessment, Compensation, and Governance. The feature of the Bill which received the most attention though was the broadening and extension of compensation benefits for firefighters and their families. The Bill expanded coverage for work-related illnesses affecting firefighters to include three new cancers as well as heart attacks occurring within 24 hours of an emergency response, and included part-time and volunteer firefighters under new presumption provisions.
- Bill 51 - *The Labour-Sponsored Investment Funds Act (Various Acts Amended)*. This Bill sought to improve governance of Manitoba's labour-sponsored venture capital corporations (LSVCCs), including Crocus Investment Fund; enhance the reporting and disclosure requirements for LSVCCs; and streamline the regulation of LSVCCs and the administration of the LSVCC tax credit program. This legislation emerged in the aftermath of problems with the Crocus Investment

Fund which were the subject of an investigation by the Auditor General.

- Bill 52 - *The Legislative Assembly Amendment Act* (2) establishes that a commissioner will be appointed to consider the past service buy-back program of the Legislative Assembly Pension Plan. A previous Commissioner's report indicated that the program should be reviewed and changed because limitations under the *Income Tax Act (Canada)* prevented members from purchasing past service to the extent recommended by the previous commissioner. The new commissioner will make decisions about the purchase of past service in respect of the period from April 25, 1995 to October 1, 2004.
- Bill 207 - *The Medical Amendment Act*. This Bill allows physicians more flexibility to practise non-traditional therapies and other therapies that differ from prevailing medical practice, without the potential for professional discipline unless the non-traditional or differing therapy involves a greater risk to patient health. A Private Members' Bill brought forward by **Len Derkach** (PC - Russell), this Bill was supported by the government, with Minister of Health **Tim Sale** (NDP - Fort Rouge) moving an amendment at the committee stage.

Matters of Privilege

Prior to Oral Questions on May 5, 2005, the Official Opposition House Leader rose on a matter of privilege concerning comments made by the Minister of Education, **Peter Bjornson** (NDP - Gimli), during Oral Questions on the previous sitting day. Mr. Derkach asserted that Minister Bjornson had committed a falsehood and had intended to deceive the House, tabling documents which he contended supported his assertion. He concluded his remarks by moving a motion recommending disciplinary action for the Minister. Speaker **George Hickey**

took the matter under advisement and returned with a ruling on May 11.

Referencing several procedural authorities as well as rulings from three previous Manitoba Speakers, Speaker Hickey concluded that no prima facie case of privilege had been established. The Speaker quoted a ruling from former Manitoba Speaker **Louise Dacquay** who stated that short of a Member acknowledging to the House that he or she deliberately and with intent set out to mislead, it is virtually impossible to prove that a Member has deliberately deceive the House.

The ruling also referenced Joseph Maingot's *Parliamentary Privilege in Canada*, which advises "that to allege that a member has misled the House is a matter of order rather than privilege," as well as Beauchesne which states "It has been formally ruled by Speakers that statements by Members respecting themselves and particularly within their own knowledge must be accepted."

As our rules allow, Mr. Derkach challenged the Speaker's ruling, which was ultimately sustained on a recorded division of yeas 32, nays 20.

On Tuesday, June 7, 2005, **Jon Gerrard** (Independent Liberal - River Heights) raised a similar matter of privilege regarding answers to questions given by the Minister of Family Services and Housing, **Christine Melnick** (NDP - Riel). Mr. Gerrard contended that Minister Melnick had provided answers during Question Period which were at odds with a newspaper article and with a letter that he had tabled concerning whether or not the former Minister of Family Services had been aware of problems at Hydra House in the spring of 2000. An adult community living facility, Hydra House was the object of an

Auditor General's Investigation in 2004. Mr. Gerrard also called for disciplinary actions to be taken respecting the Minister.

On June 13 the Speaker ruled that, on the basis of the same procedural authorities and previous Manitoba Speakers rulings referenced in the previous matter of privilege, he could find no *prima facie* case of privilege in this instance.

Sessional Order

Following the example of our previous session, the House unanimously passed a programming motion on June 9, 2005 laying out a timeline for the completion of both the current session as well as the next session. The sessional order provides both a schedule for all sitting dates through the next year (until June 2006), as well as day-by-day and hour-by-hour steps for completion of the various stages of all legislation and financial processes – for both the current session and the next.

Barring an emergency, the House will resume sitting with the Throne Speech opening the fourth session of the 38th Legislature on October 27, 2005, in accordance with the sessional order.

Rule Changes

On the afternoon of the last day of session our Rules Committee met to formally consider a number of rule changes that had previously been discussed by a working group of MLAs. The committee agreed on the package of revisions and promptly (on the same day by leave) reported their decisions to the House, where the amendments to the rules were concurred in and agreed to by all members.

The amendments include revisions to many aspects of our operations, including:

- Changing the daily hour of adjournment from 5:30 to 5:00, while adding an extra sitting Tuesday mornings from 10:00 to noon;
- Instituting a one-minute Quorum Bell;
- Changes to the consideration of Private Member's Resolutions;
- Reducing speaking time in the Committee of the Whole and Committee of Supply from 30 minutes to 10 minutes;
- Modifications to the rules governing the questioning of Ministers during debate on the Concurrence motion in the Committee of Supply;
- Changes to the rules governing Standing Committee membership whereby the Whips provide Committee Clerks with lists of Members to serve on the committee for each meeting (as opposed to a standing membership with substitutions); and
- Establishing speaking times of 10 minutes in Standing Committees (previously speaking times in committees had been unlimited).

Rick Yarish

Clerk Assistant /
Clerk of Committees



New Brunswick

The Second Session of the Fifty-fifth Legislative Assembly, which opened in December, 2004, continued sitting throughout the spring. For the first time, a legislative calendar was adopted by the House, setting out the sitting days

for the remainder of the Session. As a result, following a brief sitting in December and January, the House resumed sitting on March 30, 2005, and followed a schedule of three weeks on and one week off. Given the necessity for all Members to be in their chairs due to the closeness of the House, the legislative calendar allowed Members to organize their schedules and plan constituency business for the weeks that the House was not sitting.

Pursuant to the calendar, the Assembly was scheduled to adjourn on June 10, 2005. However, given the heavy workload and the numerous Bills before the House, the Session carried on well past the scheduled end date and, after 57 sitting days, adjourning on June 30. The Legislature is scheduled to resume on December 6, 2005.

From April 29 to May 1, Speaker **Bev Harrison** presided over the Sixteenth Annual Student Legislative Seminar. Forty-nine students from around the province attended various workshops and lectures focusing on the judicial, executive and legislative branches of government. Guest speakers included Premier **Bernard Lord** (PC, Moncton East); **Shawn Graham**, Leader of the Official Opposition (Lib., Kent); **Jody Carr** (PC, Oromocto-Gagetown); and **Kelly Lamrock** (Lib., Fredericton-Fort Nashwaak). The weekend event culminated with the students participating in a model Parliament within the Legislative Assembly's historic Chamber.

The Standing Committee on Crown Corporations tabled its first report to the House on May 5. The report outlined the activities of the Committee during the First Session of the Fifty-fifth Legislature, including its review of the province's eight regional health authorities and numerous Crown corporations and agencies. The report also dealt with

the March 2004 hearings which reviewed issues surrounding the New Brunswick Power Corporation agreement with Venezuela to secure a supply of orimulsion for the Coleson Cove Generating Station in Saint John. An *Analyses of Orimulsion Hearing Transcripts* was prepared by a consultant to the Committee and included in the Committee's report to the House. Of significant note, the Committee also agreed to include in its report a dissenting report prepared by the Office of the Official Opposition.

On May 13 the Legislature appointed the Standing Committee on Estimates, which, while provided for in the *Standing Rules*, had not been appointed since 1988. In an effort to expedite the review of the main estimates for 2005-2006, the Legislature referred the estimates of several departments to the Committee for consideration. The Committee met during a week the House was in recess and successfully accomplished the review normally undertaken by the Committee of Supply.

On June 21 Speaker Harrison informed the House of the decision of the National Council of the Canadian Cancer Society to recognize the Legislative Assembly of New Brunswick's significant contribution to cancer control by awarding the Special Recognition Award, in appreciation for enacting the *Smoke-Free Places Act*.

A total of 81 Bills were introduced during the Session, consisting of 50 Government Bills, 28 Private Members' Public Bills and 3 Private Bills. Among the 43 Bills passed are the following:

- Bill 48, *Support Enforcement Act*, introduced by **Brad Green**, Minister of Justice and Attorney General, includes a series of new enforcement options to promote greater compliance with support

orders such as charging interest on late payments; accessing money owing to payers from sources other than employers; accessing funds from payers' bank accounts; preventing payers from shielding money or assets in family-owned companies; reporting delinquent payers to credit reporting agencies; and suspending drivers' licences.

- Bill 55, *Public Trustee Act*, creates the position of a Public Trustee, which will assist those who are unable to make decisions about their own personal affairs, finances or health care. The Public Trustee may seek a court order to manage the affairs of a person who has become infirm, or to administer the estate of a person who has died without a will. If a person wants to prepare a power of attorney or a will but does not have anyone to appoint as attorney or executor, the legislation allows the appointment of a Public Trustee to act on their behalf. In the spirit of cooperation, the Opposition withdrew its proposed *Public Trustee Act* in order to allow the more comprehensive government Bill to proceed.
- Bill 70, *An Act to Comply with the Request of The City of Saint John on Taxation of the LNG Terminal*, introduced by **Brenda Fowlie**, Minister of the Environment and Local Government, facilitates The City of Saint John's proposed municipal taxation treatment of a liquified natural gas terminal within city limits. The Bill sets the amount of municipal tax payable to the city at \$500,000 per year for a specified term of 25 years in accordance with the resolution passed by the Council of The City of Saint John.
- Bill 72, *Electoral Boundaries and Representation Act*, introduced by Premier Lord, creates an independent commission tasked with redrawing the boundaries of New Brunswick's 55 electoral ridings in time for the next general provincial election. New Brunswick's electoral boundaries were last reviewed in 1991.

On June 28 Speaker Harrison was called upon to cast his vote on four

separate occasions, negating a private member's motion regarding an extension to the term of office of the Auditor General, and affirming the motions for third reading of the following three financial bills introduced by **Jeannot Volpé**, Minister of Finance: Bill 56, *Special Appropriation Act 2005*, Bill 77, *Appropriations Act 2005-2006*, and Bill 78, *Supplementary Appropriations Act 2004-2005* (2).

On June 30 NDP Leader **Elizabeth Weir** (Saint John Harbour) rose in the House to give her final speech as Leader of the provincial New Democratic Party. Ms. Weir had announced in October, 2004, that she would be stepping down as NDP Leader. A leadership convention to elect a new Leader is planned for September, 2005. Ms. Weir was the first woman chosen Leader of a political party in New Brunswick, the first woman Leader elected to the Legislative Assembly, and the first elected Leader of the provincial New Democratic Party. Ms. Weir remains the MLA for Saint John Harbour.

On July 21 Ms. Fowlie resigned her position as Minister of the Environment and Local Government following the release of a report by the Office of the Ombudsman. In his report, the delegate for the Ombudsman in this matter, **Stuart G. Stratton** (former Chief Justice and Conflict of Interest Commissioner) concluded that the Minister had disclosed personal information concerning a sitting Member of the House and that its dissemination was in breach of the *Protection of Personal Information Act*. **Dale Graham**, Deputy Premier and Minister of Supply and Services was appointed Acting Minister of the Environment and Local Government on an interim basis.

The standings in the House remain 28 Progressive Conservatives, 26 Liberals, and 1 New Democrat.

Shayne Davies

Clerk Assistant and Committee Clerk



Prince Edward Island

On June 7, 2005, the Second Session of the Sixty-second General Assembly was prorogued after 53 sitting days, a comparatively long Session for Prince Edward Island. Records show that only four times in the past two decades has a Session gone beyond the 50-day mark.

During the Session, a total of 56 bills received Royal Assent; 53 motions were tabled; 170 ministerial statements were read; 155 members' statements made; and 15 reports by the various standing and special committees of the Assembly were tabled.

On April 20, 2005, the Standing Committee on Privileges, Rules and Private Bills presented its report to the Members of the Legislative Assembly recommending, among other matters, a change to the Rules of the Legislative Assembly concerning membership of the various standing and special committees of the Legislative Assembly. The proposed amendment was that Rule 4 of the Rules for Standing and Special Committees of the Legislative Assembly be deleted and the following substituted:

4(1) The membership of the committees shall be allocated by the Committee on Committees in generally the same proportion as that of the recognized political parties in the House itself, if such approach is practicable.

(2) Notwithstanding subsection (1), in no case shall the Official Opposition have fewer than two Members on any one committee, unless there are fewer than two members of the Official Opposition.

The report was received and adopted by the Assembly. The new rule provides for a minimum of two members of the Official Opposition, if possible, to sit on the various standing committees and reflects the practice which has been in place since December 2003.

In January 2005, the Commission on PEI's Electoral future was created in response to recommendations made in the Electoral Reform Commission report released in 2003.

Commissioners began meeting in March and unveiled a proposed mixed member proportional model at the end of May. They have suggested a two-ballet system. On the first ballot, the representative of the local district would be determined by the first-past-the-post system, as is done currently. A total of 17 local districts would be contained within the boundaries of the four federal electoral districts. Ten "list" or proportional seats would be allocated province-wide using the second ballot. On this ballot, electors would select the party which they most prefer. The second ballot results would be used to determine the popular vote obtained by each party. The Commission also has the mandate to conduct an education program designed to increase among the general public an awareness of the present first-past-the-post system and the proposed mixed member proportional sys-

tem. Following the education component of the process, which will include public meetings, Islanders will be asked to vote in a plebiscite to determine which of the two electoral systems they prefer. A date for the plebiscite has not yet been set. Further information, including a complete description of the proposed mixed member proportional model, can be found at www.electoralfuture.pe.ca.

Rebecca Wellner was appointed Prince Edward Island's Information and Privacy Commissioner under the *Freedom of Information and Protection of Privacy Act* on June 6, 2005. The appointment is for a five year term, and is designated as part time.

The Commissioner's position arises out of the Act which was proclaimed on November 1, 2002. Ms. Wellner's role is to attempt to resolve disputes under the Act, to conduct independent reviews of decisions made by public bodies under the Act, to resolve complaints under the Act, to monitor the administration of the Act, and to ensure that the Act's purposes are achieved.

Ms. Wellner was called to the Bar of Prince Edward Island in December 1995. She continues to practice law in the private sector on a part time basis in Charlottetown. She is also the Co Chair of the Legal Aid Committee of the Law Society of Prince Edward Island, Treasurer of Collaborative Law PEI, and a regular volunteer with various charitable organizations.

Marian Johnston

Clerk Assistant and
Clerk of Committees



Senate

When the Senate received two important Government bills from the House of Commons late in June, it became necessary to sit beyond the usual time of summer adjournment. The passage of these two bills, C-48 and C-38, were not only critical to the stability of the minority Government but controversial and their consideration occupied the Senate until mid July.

Bill C-48, which proposed additional spending in social areas from budgetary surplus funds, had come about as a result of an agreement between the Liberal and the New Democratic parties in the House of Commons. Conservative members of the Senate National Finance Committee recorded their opposition to the bill in a minority report appended to the committee report presented to the Senate on July 18. Although the Conservative Senators strongly objected to the lack of transparency and accountability, the bill was passed by the Senate and received Royal Assent by written declaration on July 20.

In keeping with its perceived constitutional role to protect the rights of minorities, the Senate has the responsibility to shape legislation consistent with the values enshrined in the *Charter of Rights and Freedoms*. The contribution of the Senate over the years in ensuring the rights of minority language groups, aboriginal peoples and

equality for men and women has been significant. In recent years as well, the Senate has been instrumental in changing federal laws to include sexual orientation as a prohibitive ground of discrimination. Although debate on same-sex issues has sometimes been contentious, the Senate has stood united in its desire to present a balanced view on human rights and debate on Bill C-38, which changes the traditional definition of marriage to include same-sex couples, was no exception. At issue was the reconciliation of equality rights with the right to freedom of conscience and religion. Opinions ranged from those who argued for the right of gay and lesbian people to civil marriages to those who contended the bill did not adequately protect the right of churches to maintain the traditional view of marriage. Forty-one Senators took part in second and third reading debate and in the end, after exhaustive consideration, passed the bill late on July 19. The following day, on July 20, the Chief Justice of the Supreme Court of Canada signified Royal Assent by written declaration.

In addition to Bills C-48 and C-38, nineteen other bills received Royal Assent by written declaration on five separate occasions. Of note was the enactment of Bill S-18, an amendment to the *Statistics Act* for it represents the successful passage of legislation, after several attempts in recent years, that would allow for the release of post-1901 census records after 92 years.

Committees

The Human Rights Committee called for government action in two reports released during the spring of 2005. The Committee raised serious concerns about delays in the implementation of recommendations made in its 2003 report about the

rights of Aboriginal women on reserve to their share of the matrimonial property. In its Seventeenth Report, tabled on May 10, the Committee urged the House of Commons Committee and the Department of Indian Affairs and Northern Development to take immediate and decisive action on this important issue. On May 17, the Human Rights Committee tabled its Eighteenth Report. Updating its review of Canada's international and national human rights obligations, the Committee called once more for Canada's ratification of the American Convention on Human Rights.

The Senate approved a Conflict of Interest Code for Senators with the adoption of the Third Report of the Rules, Procedures and the Rights of Parliament Committee on May 18. The Code is to be administered by the Senate Ethics Officer, whose position was established in Bill C-4, an amendment to the *Parliament of Canada Act*, assented to in March 2004. The Senate has already approved the appointment of **Jean. T. Fournier** to this new position.

Two reports were released by the National Finance Committee on May 19. The Eleventh summarized the Committee's review of the federal government's use of foundations as vehicles for implementing policy and questions raised by the Auditor General about how the government accounts for the transfer of funds to foundations. During its study of the 2004-2005 Estimates, the Committee reviewed the planned expenditures of the Auditor General, Chief Electoral Officer, Privacy Commissioner, Information Commissioner and Commissioner of Official Languages. In its Twelfth Report, the National Finance Committee highlighted similarities in the budget determination

process of these Officers of Parliament.

Since 2003 when Bovine Spongiform Encephalopathy (BSE) was discovered in Canada, the Agriculture and Forestry Committee has been studying its effects on the Canadian cattle industry. The Committee's most recent report entitled "Cattle Slaughter Capacity in Canada", is a follow-up to another report tabled in April 2004 which focussed on the need to increase meat processing capacity in Canada. In its Seventh Report, tabled on May 19, the Committee outlines the North American packing industry and reviews the government's strategy to build new packing capacity.

On May 19, the Fisheries and Oceans Committee released "Canada's New and Evolving Policy Framework for Managing Fisheries and Oceans", an interim report on its study of the adverse effects of changes on coastal communities and their inhabitants. The Committee recommended additional funding to the Department of Fisheries and Oceans and a delay in implementing a new fisheries management system.

A Second Interim Report of the Energy, the Environment and Natural Resources Committee was tabled on June 14. Entitled "Sustainable Development: It's Time to Walk the Talk", the report strongly recommends decisive action by the government to make sustainable development a priority.

Also on June 14, the Official Languages Committee tabled its Sixth Report "French-Language Education in a Minority Setting: A Continuum from Early Childhood to the Postsecondary Level". This report identifies areas for improvement in the delivery of a continuous education in French. It is the latest in the

Committee's study on the application of the Official Languages Act.

Canadian security has been the subject of a series of reports released by the National Security and Defence Committee since the terrorist attacks in the United States in 2001. On June 14, the Committee tabled "Borderline Insecure", the product of more than three years of investigating how Canada handles security at Canadian-U.S. border crossings. Stationing and maintaining an RCMP presence at all crossings was one of twenty-six recommendations to the government contained in this report.

The Fifteenth Report of the Banking, Trade and Commerce Committee entitled "Falling Behind: Answering the Wakeup Call, What Can Be Done To Improve Canada's Productivity Performance" was tabled in the Senate on June 22. In it, the Committee recommends the development and implementation of a comprehensive plan to enhance productivity and competitiveness in Canada and the creation of a Productivity Forum to monitor federal productivity initiatives.

Speaker's Rulings

Following Question Period on April 19, and just after the Leader of the Government had provided a verbal response to a delayed answer, Senator **Gerry St. Germain** rose on a point of order with an objection. It was his understanding that delayed answers were to be provided for tabling in written form only, usually by the Deputy Leader of the Government. In his defence, the Government Leader explained that he thought oral answers were acceptable because it gave the Opposition a chance to ask a further question. In his ruling on May 3, the Speaker agreed that what had occurred was a departure from the usual custom

and not in order. In accordance with Senate practice, a delayed response should be tabled, even if a request is made to repeat it orally.

Senator **Willie Adams** rose on a point of order just as third reading debate on Bill C-15, an amendment to the *Migratory Birds Convention Act, 1994* and the *Canadian Environmental Protection Act, 1999* was about to begin on May 18. He argued that the bill was not properly before the Senate because the Energy, the Environment and Natural Resources Committee had dispensed with a clause-by-clause study of the bill. After lengthy debate, the Speaker *pro tempore* gave her ruling. She agreed the motion to dispense with clause-by-clause consideration of the bill was irregular because it had the effect of preventing members of the Committee from being able to move amendments. However, since committees are regarded as masters of their own proceedings and the Speaker could not undo decisions that had been taken by the Committee, there was no point of order.

On June 28, when Senator **Bill Rompkey**, Deputy Leader of the Government sought to move a motion for the Senate to adjourn to the call of the chair to receive the Royal Assent letters, Senator **Noël A. Kinsella**, Leader of the Opposition, rose to object. It was his opinion that the motion required leave or unanimous consent since it was not a standard adjournment motion. The Speaker agreed and ruled it was Senate practice to require leave for this type of motion.

During third reading of Bill C-38 on July 19, Senator **Eymard Corbin** rose on a point of order to object to the practice of using lists as a guide for the Speaker to recognize Senators who wish to participate in debate. In his ruling the following day, the Speaker noted the function of

the informal lists to facilitate the conduct of business. They are not meant to limit the right of any Senator who wishes to speak during debate. For this reason, the Speaker ruled there was no point of order.

Milestones

Two women retired from the Senate. **Viola Léger**, an Acadian actor from New Brunswick on June 29 and **Isobel Finnerty**, a former executive director of the Liberal Party of Canada in Ontario on July 15. Both women had reached the mandatory retirement age of 75 years. Currently, there are 36 women in the Senate.

Mary Mussell
Journals Branch



Yukon

The 2005 Spring Sitting of the Yukon Legislative Assembly began on March 24. Pursuant to Standing Order 74 the government introduced all the bills it wanted to see dealt with during this sitting by the fifth sitting day, April 4. Subsequently, pursuant to Standing Order 75, the three House leaders met to determine the length of the sitting. On April 6 the government House leader, **Peter Jenkins** (Klondike, Yukon Party) informed the Assembly that the House leaders could not reach agreement on the length of the sitting. As a result the Speaker, **Ted Staffen**, declared, pursuant to Standing Order 75(3), that the 2005 Spring Sitting would

last 30 sitting days, the 30th sitting day to be May 17, 2004.

Government Legislation

Five government bills were introduced during this Sitting. These bills were:

- Bill No. 13, *Third Appropriation Act*, 2004-05
- Bill No. 14, *Interim Supply Appropriation Act*, 2005-06
- Bill No. 15, *First Appropriation Act*, 2005-06
- Bill No. 55, *Miscellaneous Statute Law Amendment Act*, 2005
- Bill No. 56, *Dawson Municipal Governance Restoration Act*

Bill No. 14 received assent on March 31; the other four bills received assent on May 17.

Question of Privilege

On the opening day of the Sitting **Pat Duncan** (Porter Creek South, Liberal) rose on a Question of Privilege. At issue was the government's divulging of budget-related information in advance of the presentation of the 2005-06 estimates in the Assembly. This, Ms. Duncan argued, constituted a contempt of the Assembly. Those familiar with the situation that developed in Ontario in 2003 will understand the issue presented in Yukon. In fact Ms. Duncan, in presenting her case to the Assembly, relied heavily on the argument presented by the former member for Renfrew-Nipissing-Pembroke, **Sean Conway**, and the ruling of Ontario's then-Speaker, **Gary Carr**.

In this case, however, Speaker Staffen, did not find a *prima facie* case of contempt. In his ruling the Speaker accepted the definition of contempt offered by Joseph Maingot in *Parliamentary Privilege in Canada* as "an offence against the authority and dignity of the house." However Speaker Staffen found

that the authority of the House had not been adversely affected by the government's action. The Speaker concluded that, "No matter what announcements the government makes outside this House all appropriations have to be submitted to, and passed by, this Assembly before they become law and the government acquires the lawful authority to spend those appropriations."

As for the dignity of the House the Speaker found significant differences between the actions taken by the Government of Ontario in 2003 and the Government of Yukon in 2005:

In the case ruled upon by Speaker Carr the Government of Ontario divulged its entire budget outside the Assembly. The announcement, equivalent to the Yukon finance minister's second reading speech on the main appropriation act, was held in, and televised from, a private facility outside the assembly. Prior to the announcement the government also conducted a media lock-up and released the budget papers to the media and the public. Members of the Assembly were invited to the budget announcement. All this took place six weeks before the Assembly reconvened.

The effect of these actions was to marginalize the Assembly in the budget process. Speaker Carr also noted that this process exposed the Assembly to a large volume of public ridicule. This, to Speaker Carr, added up to an apparent contempt of the Assembly.

There were some significant differences between the situations in Yukon and in Ontario. Important information about the government's proposed appropriations were made public before the House reconvened. However, most of the spending priorities subsequently announced by the Premier had not

been made public. The entire budget speech was delivered for the first time in this House, as it always is, and Members of the Assembly were in their places by right of their election, not as the invited guests of the government. Also, the papers that accompany the budget bill were not released to the public in advance of the moving of the motion for second reading of Bill Number 15 [*First Appropriation Act, 2005-06*]. The lock-ups for opposition members and the media took place in the usual fashion.

While he found no *prima facie* case of contempt the Speaker stated that:

the issue is not settled for all time. The Chair believes that it is the extent and manner of the budget release in Ontario that inspired Speaker Carr's ruling. Should the extent and manner of pre-budget releases in Yukon become more elaborate the Chair might legitimately be called upon to revisit this issue as a matter of contempt. The Chair might reach a different conclusion at that time.

In closing his ruling Speaker Staffen advised the government that it should:

take care in how it announces its intention for spending money that the House has yet to appropriate. In researching this ruling the Chair noted that not all government news releases acknowledged that such spending was subject to the approval of the legislature. The Chair believes this statement should be included in all such statements to ensure that the assembly's authority is respected, its dignity is protected and the public is properly informed.

Budget address

Immediately after Ms. Duncan put her question of privilege before the assembly the Premier and Finance Minister, Dennis Fentie initiated second reading of Bill No. 15 by giving the budget address for 2005-06. This budget is the largest in Yukon's history with \$784 million in spend-

ing estimated for the coming fiscal year.

After 11.5 hours of debate the bill received second reading and, in keeping with standard practice in the Yukon Legislative Assembly, was referred to Committee of the Whole. After a further 63.5 hours of department-by-department debate Committee of the Whole reported the bill to the Assembly without amendment on May 17. Bill No. 15 received third reading and assent the same day.

Electoral and Legislative Reform

On April 13 Premier Fentie tabled the Final Report of the government's senior advisor on electoral reform, **Ken McKinnon**. For a variety of reasons Mr. McKinnon recommended against proceeding with electoral reform, leaving open the possibility that such an initiative could take place in the future if Yukoners indicated a desire for it. Instead he suggested that the Legislative Assembly undertake "meaningful and far-reaching legislative renewal" for which he claimed there was "universal support" in Yukon.

Premier Fentie expressed support for Mr. McKinnon's conclusions. Opposition members took issue with Mr. McKinnon's conclusions regarding the need and desire for electoral reform. They also questioned the process Mr. McKinnon followed in preparing his report; specifically with what they saw as a lack of public input. In response the leader of the official opposition, **Todd Hardy** gave notice of a private member's motion on April 19. The motion, which has yet to be debated, proposed the establishment of an electoral reform commission to conduct a public review of the method used to elect members to the Yukon Legislative Assembly.

While the government and opposition took conflicting positions on the need for electoral reform both sides took up the issue of legislative renewal. On April 14 Mr. Hardy introduced and received first reading for Bill No. 108, *Legislative Renewal Act*. The bill seeks to establish a special committee of the assembly to conduct public consultations regarding the operations of the Legislative Assembly and its committees. On April 18 Mr. Hardy also gave notice of a private member's motion on the same subject. The bill and the motion revive issues Mr. Hardy raised in Bill No. 107, *Democratic Reform Act*, which was defeated at second reading on December 1, 2004. Neither Bill No. 108 nor the private member's motion have been called for further debate.

Also on April 14 **Patrick Rouble** (Southern Lakes, Yukon Party), gave notice of a private members' motion that called upon the Standing Committee on Rules, Elections and Privileges (SCREP) to make recommendations on a code of conduct and decorum for members to follow in the Assembly. This motion was debated on April 20. During the course of debate **Gary McRobb** (Kluane, NDP) proposed, by way of amendment, that this responsibility be transferred from SCREP to a special committee of the assembly and that such a committee conduct public consultations. The amendment was defeated and debate on the motion concluded at the normal hour of adjournment.

On April 27 another government private member, **Brad Cathers** (Lake Laberge, Yukon Party), gave notice of another private members' motion on the subject of legislative renewal. This motion adopted the idea of public consultations, but still left the conduct of such consultations in the hands of SCREP. That motion has yet to be debated.

Potential Expulsion of Member

On May 13 **Haakon Arntzen** (Copperbelt, Independent) was convicted of three counts of indecent assault. The charges, laid in April 2004, related to incidents that occurred in the 1970s and 1980s.

The following sitting day, May 16, Mr. Hardy sought the unanimous consent of the Assembly, under Standing Order 28, to move a motion of urgent and pressing necessity. The motion called upon Mr. Arntzen to resign his seat so that a by-election could be held in time for the 2005 Fall Sitting. Mr. Arntzen was not present but unanimous consent was denied as government members voiced their disagreement. At that time Premier Fentie said Mr. Hardy's motion was premature as Mr. Arntzen had yet to be sentenced or indicate whether he planned to appeal the verdict.

While the motion was not debated on that day the issue is not settled. Mr. Arntzen is to be sentenced in September and then has 30 days to give notice of his intention to appeal, should he decide to do so. He has said he is contemplating his political future, but given no indication if, or under what circumstances, he would resign his seat. Since the conclusion of the Spring Sitting opposition members and local editorialists have urged Mr. Arntzen to resign or, failing that, for the Premier to support his expulsion. The Premier has indicated that he will allow the legal system to run its course before taking any action. However, he has said, once that occurs, he expects Mr. Arntzen to "make the right decision. If not, we will."

Standing Committee on Public Accounts

On May 9 Mr. Hardy, as Chair of the Standing Committee on Public Ac-

counts, presented the committee's second report to the Assembly. This report arose from public hearings held November 19, 2004. The report contained no new recommendations; it was a follow up to hearings held in February 2004.

The committee also held public hearings on February 8 and 9, 2005. At that time witnesses representing the Yukon Development Corporation appeared to answer questions from the committee regarding two reports prepared by the Office of the Auditor General of Canada. These reports related to two projects under the auspices of the YDC – the Energy Solutions Centre and the construction of an electric power transmission line from Mayo to Dawson City – that incurred significant financial and operational problems. A report on these hearings is being prepared.

Floyd McCormick
Deputy Clerk



Last June 16, the Assembly adjourned its proceedings until Tuesday, October 18, 2005. During the spring parliamentary session, the Assembly adopted the Government's budget policy as well as 31 public bills and 7 private bills. Among the bills adopted, the following should be mentioned:

- Bill 38, *An Act respecting the Health and Welfare Commissioner*, which provides for the appointment of a Health and Welfare Commissioner by the Government;
- Bill 57, *Individual and Family Assistance Act*, whose purpose is to implement measures, programs and

services designed to foster the economic and social self-sufficiency of persons and families and to encourage persons to engage in activities that promote their social integration, their entry on the labour market and their active participation in society;

- Bill 95, *An Act to amend various legislative provisions of a confessional nature in the education field*, which strikes out all provisions of a confessional nature, as of July 1, 2008, contained in the *Education Act*;
- Bill 112, *An Act to amend the Tobacco Act and other legislative provisions*, which further prohibits smoking in places where smoking was not, until now, prohibited under the *Tobacco Act* and which comes into force on May 31, 2006.

Composition

At the Parti Québécois' National Convention, the Leader of the Official Opposition at the National Assembly, **Bernard Landry**, obtained the confidence of 76.2 percent of the delegates. Having judged this support to be unsatisfactory to remain in office, Mr. Landry then announced his resignation as Leader of the Parti Québécois and as Member for Verchères, beginning on June 6, 2005. **Louise Harel**, the Member for Hochelaga-Maisonneuve, was named parliamentary Leader of the Official Opposition from this date on.

The composition of the Assembly stands as follows: Liberal Party, 72 Members; Parti Québécois, 45 Members; Independent, 6 Members, 5 of which are from the Action Démocratique du Québec; 2 vacant seats. On May 26, 2005, **Yves Séguin** announced his resignation as Member for Outremont.

Rulings and Directives from the Chair

On June 10, 2005, **Stéphane Bédard**, Deputy Opposition House Leader, requested the holding of an urgent

debate on the Supreme Court of Canada decision which concluded that the Québec statutes regarding private health insurance go against the provisions of the *Québec Charter of Human Rights and Freedoms*.

The President deemed this request receivable for the following reasons: The request concerned a specific matter, of special importance and which fell within the jurisdiction of the Assembly. Notwithstanding the fact that when the Assembly has extended hours of meeting priority must be given to the legislative business of Government, there were no upcoming opportunities to discuss the matter, since all other procedures permitting the holding of such a debate were not applicable during this period.

Interparliamentary Relations

On April 20 and 21 the Assembly received the members of the Committee on Education, Communications and Cultural Affairs of the Assemblée parlementaire de la Francophonie. Among the topics discussed were cultural diversity and the fight against AIDS. On this occasion, the President of the National Assembly of Québec, **Michel Bissonnet**, was awarded the rank of Grand Croix, the highest distinction of the Ordre de la Pléiade, and the Secretary General of the Assembly, **François Côté**, that of Officer.

At the end of June, President Bissonnet headed a delegation of Québec parliamentarians on a mission to the Senate of the French Republic. Within the framework of this mission, the Québec Members and French Senators discussed the evolution of France within the European Union, particularly during a debate organized by the Nouvelle République organization and whose theme was *One month after the referendum: What lessons for*

France and Europe?. Furthermore, the parliamentarians met with a series of French experts on internal security to discuss the impact of the events that took place on September 11, 2001, on security measures. They also launched the "france-quebec.org" Internet site, which is a forum for exchanges and information devoted to interparliamentary relations between the French senators and Québec Members.

Pedagogical Activities

Over 250 high school and college-level students tested their knowledge on the evolution of democracy in the world and more specifically in Québec's parliamentary institutions during the 13th edition of the Young Democrats' Tournament, which was held from April 15 to 17, 2005.

On May 13 125 sixth-grade elementary students took part in the 9th legislature of the Pupils' Parliament. The student-Members examined three legislative acts reflecting their concerns: *An Act to establish a "sport school" programme in all elementary schools for second and third cycle students*; *An Act obliging elementary schools to require that all elementary students wear a uniform*; and *An Act obliging public elementary schools to develop naturalized schoolyards*. The President of the National Assembly tabled these legislative acts at the sitting of June 2, 2005, and noted that the student-Members had passed the bill establishing a "sport school" programme in elementary schools.

Other Activities

"The King wills it". These are the terms used by the Lieutenant-Governor of Québec upon giving royal assent, on April 25, 1940, to the bill granting to women the right to vote. On the occasion of the 65th anniversary of the recognition of women's

right to vote and to be eligible as candidates, former Members of the 37th Legislature were honoured during a commemorative ceremony held last April 19.

A ceremony was held on May 24 to mark the end of the reconstitution of the debates prior to 1963. This project, which was initiated by the Library of the National Assembly in 1973, has thus far enabled the publication of 62 sessions and the on-line publication of 21 others.

From June 14 to August 26, 2005, the Library of the National Assembly presented an exhibition entitled *Parliamentarians in caricature*. Visitors had the opportunity to relive with a touch of humour important events in the local and national history of Québec with some of the best caricatures of former parliamentarians or Members of the current Legislature.

Manon Voyer

Secretariat of the Assembly

Standing Committees

Last June 15 the standing committees elected their respective chairmen and vice-chairmen, since their two-year term of office had come to an end. All chairmen and vice-chairmen were re-elected and resumed their duties, with the exception of Mrs. Harel, the Member for Hochelaga-Maisonneuve, who left the chairmanship of the Committee on Transportation and the Environment to become interim Leader of the Official Opposition. **Claude Pinard**, the Member for Saint-Maurice, is now chairman of this committee.

Reports containing observations, conclusions and recommendations

Three committees tabled reports containing recommendations

within the framework of orders of initiative. First, on June 14 2005, the Committee on Planning and the Public Domain tabled its report following the examination of the orientation, activities and management of the Société d'habitation du Québec (SHQ). The Committee makes close to a dozen recommendations aiming especially to improve the annual management report and the strategic plan of the SHQ. These recommendations may be accessed at the following address:

http://www.assnat.qc.ca/fra/communiques/comm_261.htm (in French only).

On June 15, 2005, the Committee on Education tabled a report within the framework of a statutory order to hear the head officers of universities, pursuant to the provisions of the *Act respecting educational institutions at the university level*. The report contains the summaries of the hearings with the 19 institutions, a synthesis, observations and two recommendations. Furthermore, the Committee reiterates the 30 recommendations made one year ago at the conclusion of the general consultation on the future of universities.

Finally, on June 16, 2005, the Committee on Public Administration tabled its fourteenth report on the accountability of deputy ministers and chief executive officers of public bodies. The Committee makes 16 recommendations concerning more specifically the management of crime-related property, the quality of information on the performance of the Ministère de l'Emploi et de la Solidarité sociale and assistance to students having difficulties.

These recommendations may be accessed at the following address: <http://www.assnat.qc.ca/fra/COM>

[MUNIKUES/comm_263.htm](http://www.assnat.qc.ca/fra/communiques/comm_263.htm) (in French only).

Last June 14, the Committee on Culture, within the framework of the order of initiative on the diversity of cultural expressions which it carried out in April 2005, tabled an interim report containing several observations. The tabling of interim reports is rarely done at the National Assembly; the Committee opted for this procedure since it intends to continue its proceedings on this matter in autumn 2005. The members intend to monitor the state of negotiations at UNESCO regarding the Convention on the Protection and Promotion of the Diversity of Cultural Contents and Artistic Expressions and to report thereon to the Assembly. This mandate falls under the *Act respecting the Ministère des Relations internationales*, which stipulates that all major agreements must, to be valid, be approved by the National Assembly.

Legislation

Among the pieces of legislation examined during the latest intensive session, it should be mentioned that, on June 13, 2005, the Committee on Social Affairs completed the clause-by-clause consideration of Bill 112, *An Act to amend the Tobacco Act and other legislative provisions*. The main object of this bill is to prohibit smoking in places where smoking was not, until now, prohibited under the *Tobacco Act*. For example, smoking will no longer be permitted in pubs, taverns, bars and bingo halls, nor will it any longer be possible for smoking areas to be designated in such places as restaurants, the common areas of shopping centres, the gaming areas of state-owned casinos, bus stations, etc. It also prohibits smoking on school grounds as well as within nine metres from any exterior door leading to a facility of a health and

social services institution, to a building of a general and vocational college or a university or to a facility of a childcare centre. This bill was passed on June 16, 2005, by the National Assembly of Québec and will come into force on May 31, 2006.

Select Committee

On the eve of the adjournment of proceedings for the summer holidays, the National Assembly carried a motion to establish a select committee to examine the draft bill replacing the *Election Act*. Other than the fact that it is a select committee, the fourth in over twenty years, this motion includes several other special characteristics. First, it is a travelling committee that will visit several cities throughout Québec. Also, a rather unusual practice, it will be accompanied, for the duration of the public hearings, by a citizens' committee composed of four men and four women selected by a random draw. This citizens' committee will attend and take part in the public consultation sittings, according to the terms and conditions established by the select committee, and will have the opportunity, at the conclusion of proceedings, to submit its observations, conclusions and recommendations thereto.

Moreover, the motion provides that the select committee will initially hold special consultations to hear the Chief Electoral Officer and a certain number of experts and representatives of the political parties authorized. It also provides for the holding of a general consultation, which will be preceded by the publishing of an information booklet for the purpose of facilitating citizen participation. A summary of this booklet will be distributed in all Québec homes. This select committee will also be required to set aside a period of time to hear the citizens

who, though not having submitted a brief, will have indicated their interest in being heard. This latter requirement also constitutes an innovation in relation to the usual procedure followed by the standing committees of the Québec National Assembly.

The matters to be discussed by the select committee within the framework of these consultations concern more particularly: a review of the voting process as proposed in the draft bill; regional representation; the holding of elections on fixed dates; the electoral map and its revision; the pertinence of holding a referendum on the reform of the voting process; measures encouraging the fair representation of women, young people, ethno-cultural minorities and Native persons in the National Assembly.

François Ouimet, the Member for Marquette, will chair this select

committee and **Sylvain Simard**, the Member for Richelieu, will be its vice-chairman.

Order of Reference on the Religious Heritage

The Committee on the National Assembly authorized the Committee on Culture to hold public hearings this fall in seven main cities of Québec within the framework of its order of initiative on the religious heritage. Chaired by **Bernard Brodeur**, the Member for Shefford, the Committee on Culture aims to use this participatory approach to promote awareness among the population concerning the issues surrounding the future of Québec's religious heritage and to encourage the development of innovative solutions to ensure its long-term conservation while respecting the financial capability of the citizens and Government.

Order of Initiative on Road Safety

Last June, the Committee on Transportation and the Environment gave itself a mandate to examine highway safety in Québec. This mandate specifically focuses on several topics of current interest, such as the use of cellular phones while driving, senior drivers, young drivers, motorcyclists, safety around construction sites, school transportation safety, the obligatory use of winter tires and the use of photo-radars. The methods used to improve highway safety will also be discussed.

Marc Painchaud

Secretariat of committees

Translation: **Sylvia Ford**

Secretariat of the Assembly